

AMENDED IN SENATE JUNE 12, 2002

AMENDED IN SENATE MAY 30, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2651

Introduced by Assembly Member Chu
(Coauthors: Assembly Members Aroner, Goldberg, Longville,
and Steinberg)
~~(Coauthor: Senator Kuehl)~~
(Coauthors: Senators Kuehl and Romero)

February 22, 2002

An act to amend Sections 16001.9, 16164, and 16167 of, and to add Sections 16013, 16014, 16015, and 16016 to, the Welfare and Institutions Code, relating to social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2651, as amended, Chu. Foster youth.

Existing law provides for the placement of certain youth in foster care, and provides for child welfare services for, among other purposes, the protection and promotion of the welfare of all youth, including those in foster care.

Existing law also establishes the Office of the State Foster Care Ombudsperson within the State Department of Social Services for the purpose of providing youth placed in foster care with a means of resolving issues related to their care, placement, or services.

Existing law establishes a statewide toll-free telephone number for foster care youth to contact the Office of the State Foster Care Ombudsperson.

This bill would declare legislative intent and state policy, as specified, regarding gay, lesbian, or transgendered youth who are in foster care, including training requirements for foster parents ~~and foster care staff~~, *group home staff, and foster care social workers*, and issues pertaining to discrimination based on, among other things, race, sexual orientation, and medical condition.

This bill would also express the intent of the Legislature with respect to the duties of the State Foster Care Ombudsperson, and the availability of the toll-free hotline with respect to ~~gay, lesbian, or transgendered~~ *all youth in foster care, including those who are being physically, sexually, or emotionally abused*.

This bill would establish goals with respect to gay and lesbian foster parents and gay, lesbian, or transgendered foster youth.

This bill would also require the department to make diligent efforts to locate foster care placement resources that would allow children in state custody to practice their religious faiths, ~~and would require the department to promulgate related regulations~~.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 16001.9 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 16001.9. (a) It is the policy of the state that all children in
- 4 foster care shall have the following rights:
- 5 (1) To live in a safe, healthy, and comfortable home where he
- 6 or she is treated with respect.
- 7 (2) To be free from physical, sexual, emotional, or other abuse,
- 8 or corporal punishment.
- 9 (3) To receive adequate and healthy food, adequate clothing,
- 10 and, for youth in group homes, an allowance.
- 11 (4) To receive medical, dental, vision, and mental health
- 12 services.
- 13 (5) To be free of the administration of medication or chemical
- 14 substances, unless authorized by a physician.

1 (6) To contact family members, unless prohibited by court
2 order, and social workers, attorneys, foster youth advocates and
3 supporters, Court Appointed Special Advocates (CASA), and
4 probation officers.

5 (7) To visit and contact brothers and sisters, unless prohibited
6 by court order.

7 (8) To contact the Community Care Licensing Division of the
8 State Department of Social Services or the Office of the State
9 Foster Care Ombudsperson regarding violations of rights, to speak
10 to representatives of these offices confidentially, and to be free
11 from threats or punishment for making complaints.

12 (9) To make and receive confidential telephone calls and send
13 and receive unopened mail, unless prohibited by court order.

14 (10) To attend religious services and activities of his or her
15 choice.

16 (11) To maintain an emancipation bank account and manage
17 personal income, consistent with the child's age and
18 developmental level, unless prohibited by the case plan.

19 (12) To not be locked in any room, building, or facility
20 premises, unless placed in a community treatment facility.

21 (13) To attend school and participate in extracurricular,
22 cultural, and personal enrichment activities, consistent with the
23 child's age and developmental level.

24 (14) To work and develop job skills at an age-appropriate level
25 that is consistent with state law.

26 (15) To have social contacts with people outside of the foster
27 care system, such as teachers, church members, mentors, and
28 friends.

29 (16) To attend Independent Living Program classes and
30 activities if he or she meets age requirements.

31 (17) To attend court hearings and speak to the judge.

32 (18) To have storage space for private use.

33 (19) To review his or her own case plan if he or she is over 12
34 years of age and to receive information about his or her
35 out-of-home placement and case plan, including being told of
36 changes to the plan.

37 (20) To be free from unreasonable searches of personal
38 belongings.

39 (21) To confidentiality of all juvenile court records consistent
40 with existing law.

(22) To be free from discrimination and harassment based on actual or perceived race, color, religion, ancestry, ethnicity, national origin, physical or mental disability, medical condition, sex, including gender identity, or sexual orientation.

(b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

SEC. 1.5. Section 16013 is added to the Welfare and Institutions Code, to read:

16013. The Legislature finds and declares that, in an effort to enhance care and improve the well-being of youth in foster care, providers should be ensured the following protections:

(a) Sexual orientation or gender identity as a basis for discrimination is prohibited in the delivery of benefits and services.

(b) Discrimination based on the sexual orientation of foster parents and other foster household members, in licensing, approval, and placement decisions, is prohibited.

(c) Discrimination based on the HIV or AIDS status of foster parents who are able to perform foster care responsibilities and of other foster household members is prohibited.

SEC. 2. Section 16014 is added to the Welfare and Institutions Code, to read:

16014. It is the goal of this state that foster parents, including, but not limited to, gay or lesbian adults, shall be identified who are interested in caring for gay, lesbian, or transgendered youth in foster care.

SEC. 3. Section 16015 is added to the Welfare and Institutions Code, to read:

16015. It is the intent of the Legislature that the training of ~~caregivers and foster parents~~ *foster parents, group home staff, and foster care social workers* include all of the following topics:

(a) Policies and applicable state laws barring discrimination on the basis of sexual orientation, gender identity, and HIV or AIDS status.

(b) Sensitivity to sexual orientation, gender identity, and the challenges faced by gay, lesbian, or transgendered youth, or youth with gender issues, and sensitivity to the trauma faced by youth who have been sexually or physically abused.

1 (c) Educating gay or lesbian youth in foster care about their
2 sexuality and sexual health, including prevention of HIV or AIDS
3 and other sexually transmitted diseases.

4 (d) The department's policies with regard to gay, lesbian, or
5 transgendered youth in foster care.

6 SEC. 4. Section 16016 is added to the Welfare and Institutions
7 Code, to read:

8 16016. It is the goal of this state to ensure that children in
9 foster care maintain contact with their families and communities,
10 including religious communities, to the extent consistent with
11 their physical and psychological safety. To further this goal, the
12 department shall do both of the following:

13 ~~(a) By June 30, 2003, promulgate regulations that ensure that~~

14 (a) *Ensure that* whenever removal of a child from his or her
15 home is contemplated, the responsible social worker shall ask the
16 parent or legal guardian whether the child has a religious
17 affiliation, including an affiliation with a particular religious
18 institution. *This subdivision shall only apply when, in the social*
19 *worker's judgment, the child is old enough to consider himself or*
20 *herself affiliated with a particular religion.*

21 (b) *Make diligent efforts, as appropriate within the context of*
22 *many priorities in making placements,* to locate placement
23 resources that will allow children in state custody to practice their
24 religious faiths, including those religious practices that require
25 attention to aspects of daily living, including diet, dress, social
26 interaction, and special holiday observations, in order to protect
27 the right of these children to the free exercise of religion.

28 SEC. 5. Section 16164 of the Welfare and Institutions Code
29 is amended to read:

30 16164. (a) The Office of the State Foster Care
31 Ombudsperson shall do all of the following:

32 (1) Disseminate information on the rights of children and youth
33 in foster care and the services provided by the office. The rights of
34 children and youths in foster care are listed in Section 16001.9.
35 The information shall include notification that conversations with
36 the office may not be confidential.

37 (2) Investigate and attempt to resolve complaints made by or on
38 behalf of children placed in foster care, related to their care,
39 placement, or services. It is the intent of the Legislature that the
40 Office of the State Foster Care Ombudsperson shall address

1 complaints brought by gay, lesbian, or transgendered foster youth
2 regarding their care, placement, and services. The Ombudsperson
3 shall refer allegations of violations of licensing regulations to the
4 Community Care Licensing Division, and shall refer allegations
5 of civil rights violations to the Office of Civil Rights.

6 (3) Decide, in its discretion, whether to investigate a complaint,
7 or refer complaints to another agency for investigation.

8 (4) Upon rendering a decision to investigate a complaint from
9 a complainant, notify the complainant of the intention to
10 investigate. If the office declines to investigate a complaint or
11 continue an investigation, the office shall notify the complainant
12 of the reason for the action of the office.

13 (5) Update the complainant on the progress of the investigation
14 and notify the complainant of the final outcome.

15 (6) Document the number, source, origin, location, and nature
16 of complaints.

17 (7) Compile and make available to the Legislature all data
18 collected over the course of the year, including, but not limited to,
19 the number of contacts to the toll-free telephone number, the
20 number of complaints made, the number of investigations
21 performed by the office, the number of referrals made, and the
22 number of unresolved complaints.

23 (8) Have access to any record of a state or local agency that is
24 necessary to carry out his or her responsibilities, and may meet or
25 communicate with any foster child in his or her placement or
26 elsewhere.

27 (b) The office may establish, in consultation with a committee
28 of interested individuals, regional or local foster care
29 ombudsperson offices for the purposes of expediting
30 investigations and resolving complaints, subject to appropriations
31 in the annual Budget Act.

32 (c) (1) The office, in consultation with the California Welfare
33 Directors Association, Chief Probation Officers of California,
34 foster youth advocate and support groups, groups representing
35 children, families, foster parents, children's facilities, and other
36 interested parties, shall develop, no later than July 1, 2002,
37 standardized information explaining the rights specified in
38 Section 16001.9. The information shall be developed in an
39 age-appropriate manner, and shall reflect any relevant licensing

requirements with respect to foster care providers' responsibilities to adequately supervise children in care.

(2) The office, counties, foster care providers, and others may use the information developed in paragraph (1) in carrying out their responsibilities to inform foster children and youth of their rights pursuant to Section 1530.91 of the Health and Safety Code, Sections 27 and 16501.1, and this section.

SEC. 6. Section 16167 of the Welfare and Institutions Code is amended to read:

16167. (a) A toll-free telephone number shall be established for the office.

(b) Social workers shall provide foster children with the toll-free telephone number for the office and verbal or written information regarding the existence and purpose of the office.

(c) It is the intent of the Legislature that the toll-free telephone ~~number be available to gay or lesbian youth in foster care who are being physically, sexually, or emotionally abused because of their sexuality.~~ *number be made available to all youth in foster care to use for any reason, including, but not limited to, if a youth in foster care is being physically, sexually, or emotionally abused, regardless of whether the abuse is specifically related to his or her sexual orientation or gender identity.*

